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09/973,356	10/09/2001	Carolyn Christine Ramsey-Catan	US 010513	5269

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 09/973,356
Filing Date: October 09, 2001
Appellant(s): RAMSEY-CATAN, CAROLYN CHRISTINE

Daniel E. Venglarik
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed July 21, 2006 appealing from the Office

action mailed February 2, 2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

US 20020143647 A1   Headings et al.   10-2002

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-3 and 8-10 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Headings et al. (US 2002/0143647 A1) hereinafter referred to as

Headings.

Referring to claims 1 and 8, Headings teaches a system for monitoring and

controlling remote purchases comprising: a home access device selectively coupled to

at least one communication system (Figure 1, items "16" and "17"; paragraph [0014]); a

remote purchase controller controlling remote purchases over the at least one

communications network involving the home access device (Figure 1, items "12" and

"14"; paragraph [0014]), the remote purchase controller: responsive to detecting an

attempt to execute a remote purchase transaction, determining whether the remote

purchase transaction should be completed based upon a remote purchase limit

(paragraphs [0019], [0022], and [0023]). Headings does not explicitly teach holding the

transaction for processing after determining that the transaction should not be

completed. However, Headings teaches that the HoH can establish permissions such

as spending limits for sub-accounts (paragraphs [0004], [0019], [0022]). Furthermore,

Headings teaches suspending a transaction if a debit cannot be posted to a second

account (claim 6). Therefore it would have been obvious to one of ordinary skill in the

art, at the time the invention was made, to suspend a transaction for subsequent

processing in the event a permission was violated in the invention of Headings. One of

ordinary skill in the art would have been motivated to do so in order to enforce the

permissions set by the HoH.

Referring to claims 2 and 9, Headings teaches determines whether the remote

purchase transaction involves an amount exceeding a remaining available balance of

the remote purchase limit for a current period ([0019], [0022], and [0023]).

Referring to claims 3 and 10, Headings teaches identifying which of a plurality of

authorized users associated with an account to be employed in the remote purchase

transaction is attempting to execute the remote purchase transaction and ascertains the

remaining available balance of the remote purchase limit for the identified user for the

current period (paragraphs [0013], [0019], [0022], and [0023]). Headings teaches

supporting multiple users with permissions such as monthly spending limits and

accessing a users account during a transaction to determine if a permission will be
violated by the transaction.

(10) Response to Argument

Headings et al. ("Headings") discloses a system for conducting Internet
transactions via a home access device (Figure 1, "16" and "17") in communication with
a remote purchase controller (Figure 1, "12", and "14"). Headings further discloses that
a subscriber, such as a head-of-household (HoH), can create sub-accounts having
permissions (e.g. spending limits) for family members (See paragraphs [0004], [0015],
[0019]; and [0022], lines 1-7). When the system detects a transaction, it determines
whether the transaction should be completed based upon the permissions (e.g.
spending limits) (paragraph [0023], lines 1-7). If a transaction cannot be completed
because the system was unable to post the cost of the transaction to an account then
the system will "suspend" the transaction (claim 6).

Referring to claims 1 and 8, the Appellant has argued that Headings does not
teach or suggest the limitation of holding a transaction "for processing during a
subsequent period" as recited in the claims (e.g. See claim 1, line 9 of Brief). The
examiner respectfully disagrees. The examiner rejected claims 1 and 8 under 35 USC
103(a) as being unpatentable over Headings. In making this rejection, the examiner
took the position that Headings does not recite explicitly the term "holding". However,
the examiner argued that the reference's teaching of "suspending" a transaction was an
obvious variant of "holding" a transaction (See Final rejection page 3, lines 5-14). The

Appellant's arguments are not directed to the difference between "holding" a transaction
and "suspending" a transaction. Instead, the Appellant's principal argument is that
Headings does not teach or suggest the limitation "for processing during a subsequent
period" (See Brief page 5, lines 4-7; page 6, lines 1-4; page 7, lines 12 and 13; page 7,
line 26 – page 8, line 2). The examiner respectfully disagrees with this argument.
Merriam-Webster's Collegiate Dictionary, tenth edition, defines the term "suspend" as
follows: "*to set aside or make temporarily inoperative; to defer to a later time on
specified conditions.*" Therefore, the limitation of "...processing during a subsequent
period" is inherent in the definition of the word "suspend" because the term "suspend",
as used by Headings, teaches or suggests to one of ordinary skill in the art that further
processing takes place at a later time.

The Appellant has also argued that Headings does not teach resetting or
refreshing period-based limits. For example, the Brief states:

> "Nothing in *Headings et al* suggests that suspending a
> transaction...could include the alternative of holding the transaction until
> a subsequent period, to be processed after a period-based limit is reset
> at the start of the subsequent period." (See Brief page 5, lines 10-13)

> "Nothing in *Headings et al* suggests that the transaction exceeding a
> period based limit may be held for processing during a subsequent
> period, when the period-based limit refreshes." (See Brief page 6, lines
> 5 and 6)

The examiner disagrees and would like to point out that the claimed invention, as
recited in claim 1 and 8, does not recite processing "...after a period-based limit is reset
at the start of the subsequent period" or refreshing a period-based limit as argued by the
Appellant. The Appellant appears to be incorporating limitations from the specification

into the claim language. Although the claims are interpreted in light of the specification,

limitations from the specification are not read into the claims. See *In re Van Geuns*, 988

F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

The Appellant has also argued that "subsequent processing" is not the same as

"processing during a subsequent period" because the claims contemplate "period-

based" (e.g. monthly) spending limits whereas Headings teaches processing "during the

same period" (See Brief page 8, lines 14-23). The examiner respectfully disagrees.

Headings does not teach or suggest that the processing is performed "during the same

period" as alleged by the Appellant. This allegation is not supported by the disclosure of

Headings. Headings states only that the transaction is suspended. Furthermore,

claims 1 and 8 of the instant application do not support the Appellant's argument that

the spending limit is a period-based (e.g. monthly, bi-annually, bi-weekly, etc.) spending

limit. Claims 1 and 8 recite only a "purchase limit". There is no teaching or suggestion

in the Appellant's claim language that the spending limit is a "period-based" spending

limit. Regarding the limitation "subsequent period" at the end of claims 1 and 8, the

examiner took the broadest reasonable interpretation and concluded that this word

meant "some point later in time." The examiner then applied Headings teaching of

suspending a transaction and notes that the word "suspend" inherently refers to "some

point later in time."

The Appellant also appears to argue that the term "suspend", as used by

Headings, requires a manual override (See Brief, page 5, lines 10 and 11; page 6, lines

1-4; page 8, lines 16-18) whereas the current invention does not require a manual

override. The examiner respectfully disagrees. Nothing in the Headings reference

teaches or suggests that the term "suspending" requires a manual override. This

argument is not supported by the disclosure of Headings. Even if it is assumed that the

Appellant is correct in arguing that Headings requires a manual override, independent

claims 1 and 8 are sufficiently broad enough to encompass a manual override. Claims

1 and 8 recite that the remote controller only *holds* the transaction for further processing

during a subsequent period, but the claims do not recite that the remote controller

actually performs the processing during the subsequent period. Thus, as currently

claimed by the Appellant, the processing could be preformed manually during the

subsequent period (i.e. manually overriding a spending limit).

Finally, the examiner would like to point out that claims 1 and 8 of the instant

application are directed to a "system" and "apparatus" respectively. The limitation "for

processing during a subsequent period" is not commensurate with the claimed system

and apparatus because this limitation refers to a result that happens some point later

time (whether period-based or not) as opposed to a particular structural element of the

claimed system and apparatus. The limitation "for processing during a subsequent

period" is a type of functional language that appears in the claims. "Functional"

indicates nothing more than the fact that an attempt is being made to define something

by what it does rather than by what it is. See *In re Swinehart*, 169 USPQ 226 (CCPA

1971). A clause that merely states the result of the limitations in the claim adds nothing

to the patentability or substance of the claim. See *Texas Instruments Inc. v.

International Trade Commission*, 26 USPQ2d 1018 (CAFC 1993). In the present case,

the limitation "for processing during a subsequent period" merely states the result, which

occurs some point in the future, of the limitations in the claim and adds nothing to the

patentability or substance of the claimed system and apparatus. For these reasons, the

examiner respectfully requests the Board to affirm the examiner's rejection under 35

U.S.C. § 103(a).

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the

Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejection(s) should be sustained.

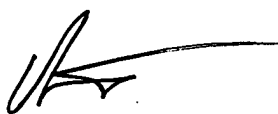Respectfully submitted,

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